

### **REMARKS**

The Office Action dated June 14, 2004 has been carefully considered. Claim 1-3 are withdrawn without prejudice. Claim 4 is amended in accordance with the Examiner's suggestion. Claims 4 - 9 are currently pending.

#### **Election/Restriction**

Restriction to one of Inventions I and II were required under 35 U.S.C. 121. The Applicant affirms the provisional election of Group II, claims 4-9, made by Diane Dunn McKay on May 26, 2004 in a telephone conversation with the examiner. The Applicants respectfully maintain their traverse.

The Office Action indicates the product as claimed can be made by another and materially different process and is therefore distinct from the process claims. However, as discussed below, no reference, including U.S Patent 5,789,616 to Kobayashi ("Kobayashi"), disclose the product as claimed with the recited physical features. Therefore, the product and process claims are not distinct inventions, and as the Office Actions indicate, do not require separate searches.

#### **Specification**

The Office Action indicates that spaces are required at certain indicated locations and requests correction of any other errors of this type. A review of those locations shows that spaces are included between all separate words. It is suggested that the appearance of missing spaces in the specification is the product of the right justification of the word processor.

The Office Action indicates that at page 21, line 13, the word "ratio" is misspelled. The specification is amended to correct this misspelling.

#### **Claim Rejections – 35 U.S.C. § 103(a)**

Claims 4-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi. The Applicant respectfully asserts that the invention as currently claimed would not be obvious to one of ordinary skill in the art in view of Kobayashi.

The invention as currently claimed recites the specific features of Zinc acrylate crystals having a long axis of not less than 5 $\mu$ m and an aspect ratio in the range of 1 – 30. These features are important because the degree of secondary aggregation is varied with the size of zinc acrylate crystal, and it is possible to decrease the secondary aggregation and secure excellent flowability by selecting the crystal size of zinc acrylate in the range. See Specification page 5, lines 10 – 15. Kobayashi does not disclose crystals in this range and do not provide the motivation to one of ordinary skill in the art to seek to make crystals with the claimed features.

Kobayashi relates to a method for production of zinc acrylate by using toluene as a solvent in the presence of an anionic surfactant, adding acrylic acid and a higher fatty acid of 12 to 30 carbon atoms thereto while dispersing zinc oxide therein, causing the zinc oxide to react with the acrylic acid, and adding the product to the organic solvent. See Kobayashi, column 2, lines 25 – 34. The zinc acrylate obtained permits easy division into a fine powder from its crystalline form and allow the clusters formed by secondary agglomeration to be easily disintegrated into a fine powder. See column 3, line 65 to column 4, line 4. Because zinc acrylic particles of not more than 5 $\mu$ m in Figs. 1 – 5 (examples) are in large proportion and increased compared to the control (Fig. 6), and the clusters formed in the zinc acrylate were readily collapsed (see column 6, lines 19 and 20), the reference is directed at producing zinc acrylate in fine powder originally or essentially or by disintegration.

In contrast, the invention as currently claimed recites crystals having a long axis of not less than 5 $\mu$ m and an aspect ratio in the range of 1 – 30. Such crystals can decrease the degree of secondary aggregation. In Kobayashi however, the obtained zinc acrylate crystal are liable to aggregate during the course of drying that must be performed when the higher fatty acid is reacted with acrylic acid in the toluene to eliminate generated water and likely to form aggregate clusters.

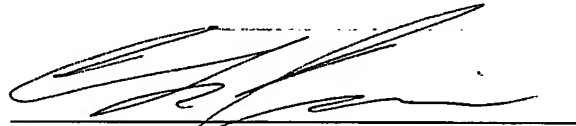
Additionally, Kobayashi contains no description about aspect ratio in the range of 1 – 30 and does not specifically references the long axis of the crystals. There is no teaching or suggestion in Kobayashi of presently claimed long axis size and aspect ratio of the crystal and the effects achieved by the claimed size. The Office Action concludes that Kobayashi must disclose particles in the claimed aspect ratio range, yet the Office Action does not consider and

Kobayashi does not disclose the degree of secondary aggregation of the crystals. Additionally, Kobayashi does not provide pictures of the crystals. Therefore it is not at all clear what the aspect ratio of the crystals in Kobayashi may be and no mention is made in the reference. Furthermore, Kobayashi does not disclose or discuss the disintegrating load of the crystals.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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Christopher S. Casieri  
Reg. No. 50,919  
Attorney for Applicant

MATHEWS, COLLINS, SHEPHERD & McKAY, P.A.  
100 Thanet Circle, Suite 306  
Princeton, NJ 08540  
Tel: 609 924 8555  
Fax: 609 924 3036